

EXHIBIT 5

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 Index No. CV 8106

5 -----x
6 HOWARD HENRY,

7 Plaintiff,

8 - against -

9 WYETH PHARMACEUTICALS, INC., WALTER
10 WARDROP, ANDREW SCHASCHL and MICHAEL
11 McDERMOTT,

12 Defendants.
13 -----x

14 July 25, 2006

15 11:35 a.m.

16 Deposition of MICHAEL
17 McDERMOTT, taken by the Plaintiff,
18 pursuant to Notice, held at the offices
19 of Orrick, Herrington & Sutcliffe, LLP,
20 666 Fifth Avenue, New York, New York,
21 before Brian Glickman, a Shorthand
22 Reporter and Notary Public of the State
23 of New York.
24
25

McDERMOTT

New Jersey, L-E-O-N-I-A.

Q. Did you have any interaction with Pearl River during these years?

A. No, the sporadic call for, you know, help, but no, no formal oversight of Pearl River during that time.

Q. After this position as vice president of operations of Solgar, what position did you hold?

A. The next position I held was vice president manufacturing services in Madison, New Jersey.

Q. How long did you hold that position?

A. Approximately a year and a half.

Q. After holding that position, what position did you hold next?

A. The next position was site managing director for Wyeth's Pearl River facility.

Q. When did you attain that position?

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A. It would be approximately four years ago. So that would make it 2002.

Q. How long did you hold that position?

A. For approximately a year and a half.

Q. What position did you hold after that position?

A. My current position managing director vaccines, Wyeth, Pearl River.

Q. And when did you attain that position 2004?

A. That was February of 2004, correct.

Q. As the site managing director of Pearl River, what were your duties?

A. As the site managing director I was responsible for our pharmaceutical production facility, our consumer health production facility, and we refer to it as site services, so engineering, HR, materials and supply, purchasing, finance, and I'm sure a few

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attention to the plaintiff Howard Henry, when did you first become aware of Mr. Henry in any way?

A. If you would please --

Q. In any way?

A. I couldn't put a date to it, but my first recollection of meeting Howard was on the production floor, during a tour of the production area, and meeting him just informally in the production facility.

Q. Do you recall what position you held when you met Mr. Henry on the production floor?

A. Site managing director.

Q. So prior to attaining the position of site managing director you had no interaction with Mr. Henry?

A. That is correct.

Q. Did there come a time when you supervised his work at all?

A. There had never been a time where I directly supervised Howard's work, no.

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Q. Did there ever come a time where you directly participated in the preparation of his performance appraisals?

A. No, there is not.

Q. Did you at any time participate in the cascade plan of putting employees in particular positions?

A. My role in the organization cascade process was to -- was formal involvement in my direct reports. So I did participate in that, not only participate but drive that effort for my directs, it was my directs who managed that for the next level in their organization.

Q. What is this organizational cascade process, can you explain it to us?

A. The organization cascade process was a corporate initiative program that was expected from all the manufacturing sites worldwide for Wyeth

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and the approach was to be sure that we had -- the primary approach was to ensure we had organization focus on the manufacturing areas. When I say manufacturing, packaging, the functions of making products for our customers.

Q. Is this an ongoing process or a process that was during a particular time period, how did that work?

A. It was a formal process again directed by corporate, but it is an inherent ongoing process as part of good management.

Q. Do you recall when you first heard the term "organizational cascade process" while at Wyeth?

A. I couldn't even guess. It was during my employment as site managing director.

Q. Do you know if prior to the time you were a site managing director they had an organizational cascade process at Wyeth?

A. I'll restrict my answer to

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Wyeth Pearl River, which I'm primarily aware of, and during that time in particular my previous manager Steve white, that I had indicated earlier. He did not call it organization cascade, but we used a similar process at that time and as a matter of fact my assignment as department head was part of Steve's process for his approach.

Q. In this organizational cascade process, did you have anything to do with putting Mr. Henry in the position that he was slated to take over?

A. In the organizational process I did not have direct involvement in Howard's assignment to packaging. My involvement in the process was an awareness that the process was happening and final, if you will, administrative approval of the changes.

Q. So any change with respect to the Pearl River plant during this time period would have to be approved by

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meeting was held shortly thereafter on my calendar when my administrative assistant was able to schedule that.

Q. And so you had two meetings with Mr. Henry with respect to this proposed change in his employment?

A. I had two meetings with Mr. Henry regarding this -- regarding this change and his performance review.

Q. At the first meeting what was discussed?

A. At the first meeting Howard came to my office and discussed two issues that he had regarding his employment at Wyeth. One was that he disagreed with his rating, which was a three rating out of a five scale system, three rating being meeting expectations. He strongly believed that he deserved a four rating which is exceeding expectations, and his second concern was that he was being assigned to the packaging supervisor position as part of the organization cascade.

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Q. During this first meeting, did Mr. Henry show you his prior performance appraisals at Wyeth?

A. He did not.

Q. Did he indicate to you that he had been previously rated a four?

A. He did.

Q. And did he tell you that he had been previously rated a four on the two performance appraisals prior to the one he was complaining about?

A. That's correct. Howard did share with me that he had received a four in the two years prior to the current year three rating. That's correct.

Q. Did he indicate to you in this meeting why he felt he deserved a four?

A. Yes.

Q. What did he say?

A. Howard felt that based on his role being the same, so it is my recollection that he had the same role

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his mind it did not meet his career goals, and that it was a step backwards for him in terms of his employment.

Q. Did you respond to his concerns?

A. I did respond.

Q. What did you say?

A. I indicated to Howard that the packaging supervisor position was an important part of his development at Wyeth, so that he could gain direct supervisory experience as part of his -- I won't say training, but as part of his development for future roles within the company.

Q. Did he indicate to you at either the first or the second meeting that he felt that as an African American he would have a very difficult time explaining this position on his resume?

A. I can't say those were his exact words. I can say that the spirit of it, of that this change would impact

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his career goals were an issue for him.

My response to Howard at the time was given that Wyeth's a very diverse site I would be concerned if that was an issue and if he had an issue he should share that with me.

Q. Would it be fair to say that he raised the issue of his race in one of those meetings with you?

A. I never had the sense that Howard raised the issue of race and even when I took it to the next step and asked him it is a diverse site is this a concern for you, he did not raise any concerns regarding race to me during either of the two meetings.

Q. Why would you say to him "this is a diverse site" if he didn't raise the issue of race himself?

A. The reference to, and again I can't say his wording, but his reference to as an African American versus as a production, you know, engineer, this was an issue for him,

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that's why I brought up the issue of
diversity -- the point of diversity.

Q. So it is a fact that he did
raise the issue himself of being
African American and this might have an
impact upon him because he is an
African American?

A. He did not go -- he did not
go that far and make that statement.

Q. Let me break it down then.

A. Sure.

Q. Did he indicate to you at any
time that he was an African American,
verbally?

A. Again I cannot confirm that
the words African American was his
statement at the time. I can say to
you that for me to volunteer a response
about diversity that I did get the
point that he was referring to that.

Q. So your indication that Wyeth
is a diverse place must have been as a
result of his raising concerns with
respect to his race?

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A. No. Howard, in our meetings, did not formally say to me he had an issue with race regarding his rating or his assignment. He clearly made some reference to his race for me to have suggested it, it is a diverse site and if there's any issues I would want to know about it.

Q. And you were the site director at this point that he had this meeting with you?

A. That is correct.

Q. Did you look into the issue of whether or not Howard's race played a role in his being positioned as packaging supervisor after this meeting or these meetings with him?

A. I did not pursue Howard's assignment based on a diversity issue because Howard didn't raise it to me as a diversity issue. However, I did follow-up regarding Howard's reviews which he requested that I take a look at, which I did, his three years of

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reviews, and for him -- and his request for me to look at his assignment to packaging whether or not that -- whether there was anything I could do and I did follow-up on those two things.

Q. With respect to his three reviews, did you make any determination after you had looked at his three reviews?

A. Reviews you make plural, review, one, three and two, four, just to restate your question.

Q. I'm talking about the three years of reviews?

A. I'm sorry, three years.

Q. Three years of reviews?

A. I did review Howard's three years of reviews, correct.

Q. And as a result of reviewing those three years of reviews, did you come to any conclusion yourself?

A. My conclusion after reviewing Howard's reviews, for the three-year

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period, was that his ratings in all three years were justified and in particular his issue with the third-year three review, the three rating in particular, I felt that that was a fair rating as again meets expectations. Given that his manager at the time had done a mid-year review with Howard, which I did review as part of his review for that year of the three rating, and based on the mid-year review based on the projects that were highlighted to Howard that needed to be completed by year end, and based on the results that not all those projects were completed on time, I felt that an at expectations was not only -- it was not only fair but a reasonable rating given that in a couple of respects he did not even meet expectations from his mid-year review of his manager.

Q. Did you have any discussions with his manager in making this determination that these ratings were

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A. It was Joanne Rose.

Q. Wasn't she the manager of the entire human resources department?

A. That's incorrect, Joanne was responsible for the employees in the consumer health group. She was not the HR director for the site, that was another individual.

Q. Were there any other HR representatives under Ms. Rose that dealt with this area?

A. There were not that I am aware of.

Q. Do you know if it's common procedure to do a mid-year review on an employee of Mr. Henry's status at Wyeth?

A. I'll answer your question in general, that mid-year reviews are encouraged for all employees, and it would not have surprised me that Mr. Henry received a mid-year review as did many of the employees at the time.

Q. Do you know if Mr. Henry had

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received a mid-year review at Wyeth prior to this particular mid-year review ever?

A. I'm not aware because I didn't ask for it nor did I review any mid-year reviews of Howard prior to this year in question.

Q. Did you think it might be unusual that a mid-year review was being done for Mr. Henry after he had rated a four the year prior?

A. It does not surprise me at all that Mr. Henry was -- went through a formal mid-year review process. It is a process we encourage for all employees.

Q. Do you know or did you have any discussions with anyone concerning changing Mr. Henry's performance appraisal for this particular year?

A. I'm sorry, could you restate?

Q. Sure.

At any time during this period, were there any discussions that

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involved you concerning changing Mr. Henry's performance appraisal for this particular year?

A. Yes.

Q. With whom did you have such discussions?

A. First the -- the first discussion about this was with Howard himself. I encouraged Howard in our first meeting when he had concerns with his rating that it's every employee's right to disagree with the rating and put it in writing and provide any supporting documentation that would help us make that decision, which I encouraged him to do.

After reviewing his three years of reviews and discussions with Joanne Rose and Andy Schaschl, it was Joanne and I who suggested that we incorporate some of Howard's comments regarding his comments rebuttal, if you will, regarding his review into a modified review.

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yourself with respect to why this particular performance appraisal should be changed? Did the three of you feel it was unfair, the original performance appraisal?

A. We did not feel it was unfair which is why the three rating stood.

Q. But you felt the three of you felt that it should be modified to include Mr. Henry's comments?

MR. MCQUADE: Objection.

Q. Is that an accurate statement?

A. That's not an accurate statement.

Q. The discussion that was held between yourself, Mr. Schaschl and Ms. Rose resulted in a decision being made that the performance appraisal should be modified; is that correct?

A. The outcome of our discussion was that the performance review would be modified, correct.

Q. And as a result of those

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A. I did address his concerns at the meetings with him, and in particular his -- and in particular his -- well, we'll start with his feeling that he already manages people as a project engineer.

What I shared with Howard at the time was, yes, indeed as a project engineer you do involve and direct the activities of many individuals, he's not formally in a management or supervisory position and as such doesn't have experience in that role in performance management, salary, development plans for an individual.

So I agree with him, he does have some management experience in his current role, but that the packaging supervisor position would give him that formal supervisory experience that would be very beneficial to his career.

The second being on whether or not packaging was a demotion for him or not, I felt that that was -- maybe

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more to his point packaging was an entry position and packaging.

My response to him was packaging can be an entry position as being any other job, that packaging is a critical part of the work we do.

It's the area closest to our customer and it's an area that I felt that Howard's background, as a project engineer, he could really benefit our packaging facility at the time, so I really felt this was a good thing for his career and his development.

Q. Did you share with him that when you started in the field that you had started in packaging?

A. I didn't need to share that with Howard, he knew that I started in packaging and we did talk about that.

And again for me it was just luck or whatever that is, where I started that doesn't mean work in the packaging area is only for first time folks in the organization. It is a

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critical step in the process.

Q. In your experience at Wyeth and its predecessors, can you recall any instance where a chemist or a chemical engineer was asked to be a packaging supervisor in the Pearl River facility?

A. Yes, I am aware of chemical engineers being packaging supervisors.

Q. Who?

A. One in particular I can recall is Heidi Zeck, Z-E-C-K, and I'm --

Q. When did Ms. Zeck serve in that position?

A. Heidi -- I'd be guessing but '94, '95.

Q. Is Heidi still with the company?

A. She is not.

Q. Do you know when she left Wyeth or its predecessor?

A. A couple of years later, so '96 perhaps.

EXHIBIT 6

Director of Human Resources
WYETH PHARMACEUTICALS
 401 North Middletown Road
 Pearl River, NY 10965

PERSON FILING CHARGE

Howard Henry

THIS PERSON (check one or both)

☒ **Claims To Be Aggrieved**

☐ **Is Filing on Behalf of Other(s)**

EEOC CHARGE NO.

160-2005-00013

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

☒ **Title VII of the Civil Rights Act**

☐ **The Americans with Disabilities Act**

☐ **The Age Discrimination in Employment Act**

☐ **The Equal Pay Act**

The boxes checked below apply to our handling of this charge:

1. ☐ **No action is required by you at this time.**

2. ☐ **Please call the EEOC Representative listed below concerning the further handling of this charge.**

3. ☒ **Please provide by 22-OCT-04 a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.**

4. ☐ **Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.**

5. ☒ **EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by 22-OCT-04 to **Michael Bertty, ADR Coordinator, at (212) 336-3646** if you **DO NOT** wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.**

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Pedro A. Hernandez,
Investigator

EEOC Representative

Telephone: (212) 336-3760

New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

Enclosure(s): ☒ **Copy of Charge**

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☒ **RACE** ☒ **COLOR** ☐ **SEX** ☐ **RELIGION** ☐ **NATIONAL ORIGIN** ☐ **AGE** ☐ **DISABILITY** ☐ **RETALIATION** ☐ **OTHER**

See enclosed copy of charge of discrimination.

Date

Oct 01, 2004

Name / Title of Authorized Official

Spencer H. Lewis, JR,
Director

Signature

| CHARGE OF DISCRIMINATION | | AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC | CHARGE NUMBER <u>160-2005-0001</u> |
|--|---|---|---------------------------------------|
| New York State Division of Human Rights <i>State or local Agency, if any</i> | | and EEOC | |
| NAME (Indicate Mr., Ms., Mrs.) Mr. Howard Henry | | TELEPHONE (Include Area Code) (845) 352-6531 | |
| STREET ADDRESS 29 North Brook Road | CITY, STATE AND ZIP CODE Hillcrest, New York 10977 | COUNTY Rockland | DATE OF BIRTH 12/3/68 |
| NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.) | | | |
| NAME Wyeth Pharmaceuticals, Inc. | NUMBER OF EMPLOYEES, MEMBERS more than 15 | TELEPHONE (Include Area Code) (845) 602-5000 | |
| WORKPLACE ADDRESS 401 North Middletown Road | CITY, STATE AND ZIP CODE Pearl River, New York 10965 | COUNTY Rockland | |
| EXECUTIVE OFFICE ADDRESS 5 Giralda Farms | CITY, STATE AND ZIP CODE Madison, New Jersey 07940 | TELEPHONE (Include Area Code) | |
| CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify) | | DATE DISCRIMINATION TOOK PLACE EARLIEST 12/01 LATEST Present <input checked="" type="checkbox"/> CONTINUING ACTION | |
| THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)): Please see attached rider. | | | |
| <input checked="" type="checkbox"/> I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the foregoing is true and correct | | NOTARY (when necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year) 24, day of Sept 2004 | |
| DATE 07/24/04 Howard Henry Charging Party (signature) | | PHYLLIS TALISMAN No. 01TARY-0419 Notary Public, State of New York Qualified in Rockland County My Commission Expires 12-31-2006 | |

NYC 254 357208

Phyllis Talisman

RIDER TO EEOC CHARGE OF DISCRIMINATION

Howard Henry v. Wyeth Pharmaceuticals, Inc.

1. I am African-American and I am currently employed as a Production Engineer by Wyeth Pharmaceuticals, Inc. ("Wyeth"). Beginning in 2001 and continuing through the present, Wyeth has denied me a series of promotions and demoted me based on my race and color, in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e, *et seq.*, and the New York State Human Rights Law ("Human Rights Law"), N.Y. Exec. Law § 290, *et seq.*

2. I began working for Wyeth in 1992 on a temporary basis. In 1993, based on my B.S. in physical science and my excellent work performance, Wyeth hired me on a permanent basis as a Chemist in its Chemical Process Research and Development Kilo Laboratory.

3. I hoped to work my way up through the company and eventually obtain a management position. In 1997, I obtained a B.E. in chemical engineering to further my career at Wyeth. That same year, I received a merit promotion, a corresponding five per cent raise, and a Special Recognition Award for my work in chemical processing. In 2000, I received a promotion to my current position as a Production Engineer in the Lederle Consumer Health Division ("LCH").

4. Walter Wardrop, formerly the Associate Director of LCH and my supervisor, gave me extremely positive and detailed performance evaluations in 2000, 2001, and 2002. In 2000, I received an overall rating of three on a scale of one through five, with five being the highest. In 2001 and 2002, I received overall ratings of four. The evaluations stated that I exceeded expectations, completed projects on time, had commendable multi-tasking skills, worked extra hours to complete assignments, and responded to calls for assistance during the night and on weekends. The 2002 evaluation was signed by both Mr. Wardrop and Andrew Schaschl, formerly the Director of LCH

Manufacturing. Throughout 2003, I received emails from Mr. Wardrop praising my performance and noting my quick responses to problems, along with my quick turnaround on projects.

5. Despite my success and experience, I have been unable to advance at Wyeth based on my race and color. In December 2001, I applied for a position as a Project Engineer. The position was given to Cara Muscolo, a white employee who eventually obtained a management position.

6. In July 2002, I applied for a position as a Production Coordinator in LCH. The position was given to Chris DeFeciani, a white employee without an engineering or science degree. Mr. Schaschl informed me that Mr. DeFeciani received the position, because he had filled the role on a temporary basis in the past. In April 2003, the Production Coordinator position became available on a temporary basis. I expressed interest in the temporary opening, but it was awarded to Richard Morgan, a white employee without a degree. When I asked Mr. Wardrop about the promotion denial, he stated it was a good opportunity for Mr. Morgan "to show what he [could] do." When I responded that I too would like "to show what I can do," Mr. Wardrop dismissed the matter and stated that "they," referring to Mr. Schaschl and others, had made the decision.

7. In January 2004, I applied for a position as a Process Engineer in Wyeth's Vaccines Division, but was denied the position. That same month, I applied for a position as a Staff Engineer in the Bioprocess Development Department. I received no response from Wyeth, other than a confirmation of my application. There were two Staff Engineer openings and they were both awarded to white employees.

8. Immediately after I began questioning the promotion denials, which first occurred in the spring of 2003, my supervisors began criticizing my work performance. In 2003, I received a

mid-year performance evaluation, Mr. Wardrop asserted that there were times when I could not be reached on my pager. I responded that numerous Wyeth employees had experienced problems with their pagers. Mr. Wardrop next asserted that, on one occasion, I took too long to get a shot at the nurse's office. On several occasions when Mr. Wardrop knew I was out sick, Mr. Wardrop would ask other employees if they knew where I was.

9. In December 2003, I received my fourth annual evaluation from Mr. Wardrop. Mr. Wardrop gave me an overall rating of three and complained that I completed assignments late. Although he had been supervising me for four years, Mr. Wardrop stated that he had trouble evaluating me, because I had not handed in a self-evaluation. I had been unable to complete the self-evaluation by its due date, because I had to take on the job duties of two other employees and then was out of work on my honeymoon. When I returned, which was two months prior to the December 2003 performance evaluation and only six days after the due date, I asked if I should hand in the self-evaluation. Mr. Wardrop said no.

10. During the 2003 evaluation, Mr. Wardrop explained that there was a difference at Wyeth between others' "perception and the reality" of me. He stated that I was perceived as someone who completed projects late and this perception affected my position under an "organizational cascade" occurring at Wyeth. He informed me that I would be demoted to a Packaging Supervisor, a position that requires neither a degree nor my level of skill or experience. Mr. Wardrop also informed me that the perception of lateness was the reason that I had been denied more favorable positions in the organizational cascade.

11. The Packaging Supervisor position required that I do little more than stand on an assembly line all day. On January 5, 2004, I met with Derek Burt, who was to be my new supervisor. Mr. Burt informed me that my name had been available in the organizational cascade. He stated that,

although he was pleased to have me in his division, he had not chosen me.

12. Mr. Wardrop expressed conflicting reasons for the demotion to Packaging Supervisor and my performance evaluation. On January 5, 2004, Mr. Wardrop informed me that he had never made any comments about me completing projects late and stated that the 2003 performance evaluation and my new assignment had nothing to do with each other. Mr. Wardrop also refused to change my evaluation. On January 7, 2004, I met with Mr. Wardrop who stated that he wanted "to be honest" with me. He explained that Mr. Burt had worked very hard to have me made a Packaging Supervisor that he, Mr. Wardrop, had gone out of his way to ensure that Mr. Burt would not place me on a midnight shift. He stated that he had given the matter a lot of thought and wanted to resubmit my performance evaluation. Although the revised evaluation did not contain allegations of lateness on projects, unlike my prior evaluations, it is very short and implies that I am merely an average employee.

13. On January 9, 2004, I met with Mr. Schaschl regarding my performance evaluation and demotion. He stated that he had a problem with my multi-tasking skills and that it was necessary for me to obtain supervisory experience as a Packaging Supervisor. I have never had a problem with multi-tasking and numerous white employees have obtained management positions without prior supervisory experience. In addition, I oversee operators in my current position. When I asked Mr. Schaschl why the temporary Production Coordinator position was given to Mr. Morgan in the spring of 2003, Mr. Schaschl responded that Mr. Morgan had filled the position in the past. However, I was never given the same opportunity to temporarily fill the position.

14. Joanne Rose in Human Resources later informed me that my negative performance evaluation and my alleged problems with multi-tasking were factors in determining my new position. Before I met with Ms. Rose, Mr. Wardrop stopped me and apologized that "things got so bad."

15. On January 13, 2004, I met with Michael McDermott, the Managing Director of the site, who stated that I had been given a new position, because he was opposed to employees being in one job for too long. He stated that he and Mr. Schaschl were responsible for the demotion. Mr. McDermott stated that he would get back to me about the demotion within one week, but never did. I later contacted Mr. McDermott, because he did not get back to me, and met with him on January 22, 2004. Mr. McDermott stated that he would not change my position and I should not view the Packaging Supervisor job as a demotion, but rather as a way to learn new skills. I explained that, as an African-American, I would have a very difficult time explaining the demotion on my resume. Mr. McDermott responded: "I'm all for diversity, but I am not going to get into that silly discussion with you."

16. On January 26, 2004, I met with Peter Bigelow, Senior Vice President of Wyeth, and stated that I had not received an honest answer regarding my performance evaluation or my placement following the organizational cascade. I also stated that I believed I was being discriminated against based on my race. On February 11, 2004, Mr. Bigelow informed me that I had not met certain goals, which led to my performance evaluation and demotion. On February 16, 2004, I sent Mr. Bigelow an email again asserting claims of race discrimination. On February 26, 2004, Mr. Bigelow sent me an email stating that I should feel free to schedule time to discuss the situation, but the tone of the email implied that he had no intention of taking any further action. However, on March 29, 2004, after taking no action for one month, Mr. Bigelow contacted me and stated that he wanted to investigate my claims of race discrimination. Although he later informed me that the investigation found no evidence of discrimination, he provided me with no details of the investigation.

17. By email to Mr. Bigelow dated April 26, 2004, I requested that I be promoted to a position as Consumer Health Project Engineer. I received no response. On May 6, 2004, I was informed that I would remain a Production Engineer and would not become a Packaging Supervisor.

18. A culture of discrimination pervades many divisions of Wyeth's Pearl River facility. Minorities remain in lower-level positions and are routinely denied opportunities for advancement, such that Wyeth's management is dominated by white employees. The white managers have developed a "good old boys club," through which they socialize together, save accolades and promotions for each another, and exclude minorities. In the winter of 2004, Mr. Wardrop made a discriminatory comment about another employee named Manny Rivera. Mr. Wardrop made gestures imitating the hip-hop youth culture and stated in a derogatory manner to another employee: "Is Manny the kind of guy to wear his pants hanging down like this?" In a February 2004 meeting, Joe Vitanza, the current Managing Director of LCH, stated that a malfunctioning alarm system was "a tar baby that [he] just [couldn't] get off [his] back." Several years ago, Mr. McDermott walked up a group of African-American employees at an office party, while they were eating and talking, and stated: "You guys are a bunch of *animals*." The white managers lack any understanding of those that are different from them. For example, during a discussion in 2002 regarding a "Green Book" widely relied on by Mr. Schaschl, Mr. Schaschl made a demeaning reference to my strong Christian faith and stated: "It even has a part on 'acts of god' for you."

19. At all times relevant herein, I have been an "employee" within the meaning of Title VII and the Human Rights Law.

20. At all times relevant herein, Wyeth was an "employer" within the meaning of Title VII and the Human Rights Law, and has continuously been engaged in an industry affecting commerce within the meaning of Title VII.

21. As a result of the conduct detailed above, I have suffered emotional distress, mental anguish, and loss of enjoyment of life.

22. I seek: lost wages and benefits; punitive and compensatory damages; payment of attorneys' fees and costs; and an order prohibiting Wyeth from discriminating against individuals on the basis of race and color, in accordance with the requirements of Title VII and the Human Rights Law. I respectfully request that a copy of this Charge be filed with the New York State Division of Human Rights solely and exclusively for the purpose of exhausting any exhaustion requirements of federal law, and not for the purpose of electing an administrative remedy provided by state law.

F:\APPLICATION\Henry\ESQ.Charge.Rider.wpd

EXHIBIT 7

U.S. Equal Employment Opportunity Commission

WYETH PHARMACEUTICALS, INC
Director of Personnel
401 Middletown Road
Pearl River, NY 10965

PERSON FILING CHARGE

Howard Henry

THIS PERSON (check one or both)

☒ Claims To Be Aggrieved☐ Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

160-2006-00276

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

☒ Title VII of the Civil Rights Act☐ The Americans with Disabilities Act☐ The Age Discrimination in Employment Act☐ The Equal Pay Act

The boxes checked below apply to our handling of this charge:

1. ☐ No action is required by you at this time.2. ☒ Please call the EEOC Representative listed below concerning the further handling of this charge.3. ☒ Please provide by **17-NOV-05** a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.4. ☐ Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.5. ☒ EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by **10-NOV-05** to **Michael Bertty, ADR Coordinator, at (212) 336-3646**. If you **DO NOT** wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Michael Bertty,
ADR Coordinator

EEOC Representative

Telephone: **(212) 336-3646**

New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

Enclosure(s): ☒ Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN ☐ AGE ☐ DISABILITY ☒ RETALIATION ☐ OTHER

See enclosed copy of charge of discrimination.

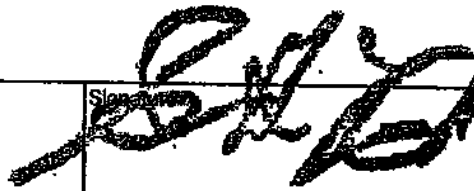
Date

Oct 27, 2005

Name / Title of Authorized Official

Spencer H. Lewis, Jr.,
Director

Signature



CHARGE OF DISCRIMINATION

AGENCY

CHARGE NUMBER

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

☐ FEPA
☒ EEOC

160-2006-00276

and EEOC

State or local Agency, if any

NAME(Indicate Mr., Ms., Mrs.)

Mr. Howard Henry

HOME TELEPHONE (Include Area Code)

(845) 352-6531

STREET ADDRESS

29 North Brook Road

CITY, STATE AND ZIP CODE

Hillcrest, NY 10977

DATE OF BIRTH

12/03/1968

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

Wyeth Pharmaceutical, Inc.

NUMBER OF EMPLOYEES, MEMBERS

15+

TELEPHONE (Include Area Code)

(845) 602-5000

STREET ADDRESS

401 North Middletown Road

CITY, STATE AND ZIP CODE

Pearl River, NY 10965

COUNTY

Rockland

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

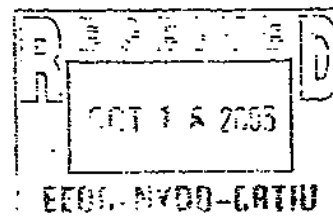
COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☐ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ AGE
☒ RETALIATION ☐ NATIONAL ORIGIN ☐ DISABILITY ☐ OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE
EARLIEST (ADEA/EPA) 09/30/2004
LATEST (ALL) Present
☒ CONTINUING ACTION

IF PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

Please See Attachment A - Henry

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

Date

Charging Party (Signature)

EEOC FORM 5 (10/94)

CYNTHIA JEAN JACQUES
No. 01JE6107498
Notary Public, State of New York
Qualified in Rockland County
My Commission Expires April 5, 2012

Attachment A - Henry

1. Howard Henry ("Howard") filed a Charge of Discrimination with the EEOC on September 24, 2004 (Charge No. *160-2005-00013*).
2. As a result of filing a Charge, Howard was, and continues to be, subjected to retaliation.
3. Examples of the retaliation to which Howard was subjected include, but are not limited to the following:
4. On September 30, 2004, Howard applied for the position of manager in the Manufacturing Support Department. On November 30, 2004 he was denied the position, as a result of his complaints regarding discrimination.
5. On or about June 24, 2005, Howard was placed on a Performance Improvement Program ("PIP") in retaliation for his complaints regarding discrimination. Howard's placement on PIP will prevent Howard from bidding on future positions for one year.
6. On several occasions, Howard was falsely accused of failing to respond to e-mails and itinerary updates from his supervisors. This was done in an attempt to pretextually label Howard as a poor employee.
7. Howard is also assigned an excessive workload compared to similarly situated employees outside his protected classes and is given unrealistic deadlines in retaliation for his complaints in furtherance of management's pretextual attempts to label Howard as a poor employee.
8. On or about July 9, 2005, Howard received a negative mid-year review in retaliation to his complaints regarding discrimination. Management did not conduct a mid-year review for any other employee.
9. As a result of the foregoing, Howard was, and continues to be, subjected to retaliation because of his filing a Charge of Discrimination with the Commission and his good faith opposition to discriminatory practices in violation of Title VII of the Civil Rights Act of 1964, as amended, and all other federal, state, and local statutes that can be inferred from the facts set forth herein.

